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HOUSE BILL 404

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Larry A. Larrañaga

FOR THE PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

AN ACT

RELATING TO EDUCATION; PROVIDING STANDARDS FOR CHARTER SCHOOL FACILITIES; PROVIDING PROCEDURES FOR ESTABLISHING CHARTER SCHOOLS; PROVIDING PROCEDURES FOR APPEALING THE REJECTION, NONRENEWAL OR REVOCATION OF A CHARTER; PROVIDING A MEDIATION PROCESS TO RESOLVE CERTAIN DISPUTES BETWEEN A CHARTER SCHOOL OR A PROPOSED CHARTER SCHOOL AND A LOCAL SCHOOL BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8B-1 NMSA 1978 (being Laws 1999, Chapter 281, Section 1) is amended to read:

"22-8B-1. SHORT TITLE.--~~[Sections 1 through 15 of this act]~~ Chapter 22, Article 8B NMSA 1978 may be cited as the "1999 Charter Schools Act"."

Section 2. Section 22-8B-2 NMSA 1978 (being Laws 1999, Chapter 281, Section 2) is amended to read:

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- 1 "22-8B-2. DEFINITIONS.--As used in the 1999 Charter
2 Schools Act:
- 3 A. "charter school" means a conversion school or
4 start-up school within a school district authorized by the
5 local school board to operate as a charter school;
- 6 B. "conversion school" means an existing public
7 school within a school district authorized by the local school
8 board to become a charter school;
- 9 C. "governing body" means the governing structure
10 of a charter school as set forth in the school's charter; ~~and~~
- 11 D. "interested party" means a charter school
12 applicant, a governing body or a local school board that is
13 involved in a dispute arising from a decision of a local school
14 board and that participates in mediation regarding that
15 dispute;
- 16 E. except for hearings conducted pursuant to
17 Subsection F of Section 22-8B-6 NMSA 1978 or Subsection B of
18 Section 22-8B-12 NMSA 1978, "local school board" includes a
19 person designated by a local school board to act on the board's
20 behalf in its relationship with a charter school;
- 21 F. "mediation" means a process whereby a mediator,
22 through negotiation and problem-solving, attempts to help
23 interested parties resolve a dispute arising from a decision of
24 a local school board;
- 25 G. "mediator" means an individual or organization

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1 that is independent of interested parties and acts to assist
2 interested parties in the resolution of a dispute arising from
3 a decision of a local school board;

4 H. "secretary" means the secretary of public
5 education; and

6 [~~D.~~] I. "start-up school" means a public school
7 developed by [~~one or more~~] parents, teachers, [~~or~~] community
8 members or a public post-secondary educational institution and
9 authorized by the local school board of the school district in
10 which the school is located to become a charter school."

11 Section 3. Section 22-8B-4 NMSA 1978 (being Laws 1999,
12 Chapter 281, Section 4, as amended) is amended to read:

13 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
14 OPERATION.--

15 A. A charter school shall be subject to all federal
16 and state laws and constitutional provisions prohibiting
17 discrimination on the basis of disability, race, creed, color,
18 gender, national origin, religion, ancestry or need for special
19 education services.

20 B. A charter school shall be [~~administered and~~]
21 governed by a governing body in the manner set forth in the
22 charter; provided that no member of a governing body for a
23 charter school that is initially approved after July 1, 2004 or
24 whose charter is renewed after July 1, 2004 shall serve on the
25 governing body of another charter school.

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1 C. A charter school shall be responsible for its
2 own operation, including preparation of a budget, contracting
3 for services and personnel matters.

4 D. A charter school may ~~negotiate or~~ contract
5 with a school district, a university or college, the state,
6 another political subdivision of the state or any third party
7 for the use of a facility, its operation and maintenance and
8 the provision of any service or activity that the charter
9 school is required to perform in order to carry out the
10 educational program described in its charter; provided that
11 facilities used by a charter school shall meet the standards
12 required pursuant to Section 22-8B-4.2 NMSA 1978.

13 ~~[E. In no event shall a charter school be required~~
14 ~~to pay rent for space that is deemed available, as negotiated~~
15 ~~by contract, in school district facilities; provided that the~~
16 ~~facilities can be made available at no cost to the district.~~
17 ~~All costs for the operation and maintenance of the facilities~~
18 ~~used by the charter school shall be subject to negotiation~~
19 ~~between the charter school and the district.]~~

20 E. A conversion school may choose to continue using
21 the school district facilities and equipment it had been using
22 prior to conversion.

23 F. A school district shall provide a charter school
24 with available facilities for the school's operations unless
25 the facilities are currently used for other educational

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1 purposes. A charter school shall not be required to pay rent
2 for the school district facilities if the facilities can be
3 provided at no cost to the school district. If facilities are
4 available, but cannot be provided at no cost to the school
5 district, the school district may not charge more than the
6 actual direct cost of providing the facilities. As used in
7 this subsection, "other educational purposes" includes health
8 clinics, daycare centers, teacher training centers, school
9 district administration functions and other ancillary services
10 related to a school district's functions and operations.

11 G. A charter school may pay the costs of operation
12 and maintenance of its facilities or may contract with the
13 school district to provide facility operation and maintenance
14 services.

15 H. Charter school facilities are eligible for state
16 and local capital outlay funds and shall be included in the
17 school district's five-year facilities plan.

18 ~~[F.]~~ I. A charter school shall negotiate with a
19 school district to provide transportation to students eligible
20 for transportation under the provisions of the Public School
21 Code. The school district, in conjunction with the charter
22 school, may establish a limit for student transportation to and
23 from the charter school site not to extend beyond the school
24 district boundary.

25 ~~[G. A charter school may negotiate with a school~~

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1 ~~district for capital expenditures.~~

2 ~~H.~~] J. A charter school shall be a nonsectarian,
3 nonreligious and non-home-based public school that operates
4 within a school district.

5 ~~I.~~] K. Except as otherwise provided in the Public
6 School Code, a charter school shall not charge tuition or have
7 admission requirements.

8 L. With the approval of the secretary, a single
9 charter school may maintain separate facilities at two or more
10 locations within the same school district; but, for purposes of
11 calculating program units pursuant to the Public School Finance
12 Act, the separate facilities shall be treated together as one
13 school.

14 ~~J.~~] M. A charter school shall be subject to the
15 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
16 Accountability Act.

17 ~~K.~~] N. A charter school may acquire and dispose of
18 property; provided that, upon termination of the charter, all
19 assets of the charter school shall revert to the local school
20 board that authorized the charter.

21 ~~I.~~] O. A charter school may accept or reject any
22 charitable gift, grant, devise or bequest; provided that no
23 such gift, grant, devise or bequest shall be accepted if
24 subject to any condition contrary to law or to the terms of the
25 charter. The particular gift, grant, devise or bequest shall

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1 be considered an asset of the charter school to which it is
2 given.

3 [M-] P. A charter school may contract and sue and
4 be sued. A local school board that approves a charter school
5 shall not be liable for any acts or omissions of the charter
6 school.

7 [N-] Q. A charter school shall comply with all
8 state and federal health and safety requirements applicable to
9 public schools, including those health and safety codes
10 relating to educational building occupancy."

11 Section 4. A new section of the 1999 Charter Schools Act,
12 Section 22-8B-4.2 NMSA 1978, is enacted to read:

13 "22-8B-4.2. [NEW MATERIAL] CHARTER SCHOOL FACILITIES--
14 STANDARDS.--

15 A. The facilities of a charter school that is
16 approved on or after July 1, 2004 shall meet educational
17 occupancy standards required by applicable New Mexico
18 construction codes.

19 B. The facilities of a charter school that is in
20 existence, or has been approved, prior to July 1, 2004 shall
21 meet the statewide adequacy standards promulgated by the public
22 school capital outlay council in the same manner as all other
23 public schools in the state and shall qualify for grants
24 pursuant to the Public School Capital Outlay Act as all other
25 public schools; provided that, for charter school facilities in

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1 leased facilities, grants may be used as additional lease
2 payments for leasehold improvements.

3 C. After January 1, 2009, a charter shall not be
4 renewed unless the charter school:

5 (1) is housed in a public building that is in
6 compliance with the statewide adequacy standards and is owned
7 by the charter school, the school district, the state, an
8 institution of the state, another political subdivision of the
9 state or a tribal government; or

10 (2) if it is not housed in a public building
11 described in Paragraph (1) of this subsection, demonstrates
12 that:

13 (a) public buildings are not available
14 or adequate for the educational program of the charter school;
15 and

16 (b) the facility in which the charter
17 school is housed meets the statewide adequacy standards and the
18 owner of the facility is contractually obligated to maintain
19 those standards at no additional cost to the charter school.

20 D. The public school capital outlay council:

21 (1) shall determine whether facilities of a
22 charter school meet the educational occupancy standards
23 pursuant to the requirements of Subsection A of this section;

24 (2) shall determine whether facilities of a
25 charter school meet the statewide adequacy standards pursuant

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1 to the requirements of Subsections B and C of this section; and
2 (3) upon a determination that specific
3 standards are not appropriate or reasonable for a charter
4 school, may grant a variance from those standards for that
5 charter school."

6 Section 5. Section 22-8B-5 NMSA 1978 (being Laws 1999,
7 Chapter 281, Section 5) is amended to read:

8 "22-8B-5. CHARTER SCHOOLS--~~[LOCAL SCHOOL BOARD]~~ SECRETARY
9 AUTHORITY--~~[STATE BOARD]~~ DEPARTMENT AUTHORITY.--

10 A. The local school board may waive only locally
11 imposed school district requirements.

12 B. The ~~[state board]~~ secretary shall waive
13 requirements relating to individual class load and teaching
14 load, length of the school day, staffing patterns, subject
15 areas and the purchase of instructional material. The ~~[state~~
16 ~~board]~~ secretary may waive state ~~[board]~~ requirements or rules
17 and provisions of the Public School Code pertaining to
18 graduation requirements, evaluation standards for school
19 personnel, school principal duties and driver education. Any
20 waivers granted pursuant to this section shall be for the term
21 of the charter granted.

22 C. A charter school shall be a public school,
23 accredited by the ~~[state board]~~ department and shall be
24 accountable to the school district's local school board for
25 purposes of ensuring compliance with applicable laws, rules and

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1 charter provisions.

2 D. No local school board shall require any employee
3 of the school district to be employed in a charter school.

4 E. No local school board shall require any student
5 residing within the geographic boundary of its district to
6 enroll in a charter school.

7 F. A student who is suspended or expelled from a
8 charter school shall be deemed to be suspended or expelled from
9 the school district in which the student resides."

10 Section 6. Section 22-8B-6 NMSA 1978 (being Laws 1999,
11 Chapter 281, Section 6) is amended to read:

12 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION
13 PROCESS--AUTHORIZATION.--

14 A. The local school board shall have the authority
15 to approve the establishment of a charter school within the
16 [~~local~~] school district in which it is located.

17 B. A charter school applicant shall apply to a
18 local school board for a charter. An applicant shall only
19 submit an application in the school district in which the
20 school is located. Applications shall be submitted by [~~October~~
21 ~~1~~] July 1 to be eligible for consideration for the following
22 [~~school~~] fiscal year; provided that the [~~October 1~~] July 1
23 deadline may be waived upon agreement of the applicant and the
24 local school board.

25 C. An application for a start-up school may be made

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1 by ~~[one or more]~~ teachers, parents, ~~[or]~~ community members or a
2 public post-secondary educational institution.

3 D. An application for a conversion school shall
4 include a petition of support signed by not less than sixty-
5 five percent of the employees in the school. Additionally, a
6 petition in support of the charter school signed by [~~a~~
7 ~~majority~~] no less than two-thirds of the households whose
8 children are enrolled in a proposed conversion school [~~must~~]
9 shall accompany the application.

10 E. The local school board shall receive and review
11 all applications for charter schools. The local school board
12 shall not charge application fees. If the local school board
13 finds [~~the~~] that a charter school application is incomplete,
14 the local school board shall request the necessary information
15 from the charter school applicant.

16 F. The local school board shall hold at least [~~one~~
17 ~~meeting~~] two public meetings to obtain information and
18 community input to assist the local school board in its
19 decision whether to grant a charter school application. Upon
20 receipt of the charter application, the local school board
21 shall hold the first meeting to inform the community and to
22 begin a discussion of the charter school application with the
23 charter school applicant and other persons interested in the
24 charter application. The local school board shall rule on the
25 application for a charter school in a second public meeting

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1 within sixty days after receiving the application. If not
2 ruled upon within sixty days, the charter application [~~will~~]
3 shall be automatically reviewed by the [~~state board~~] secretary
4 in accordance with the provisions of Section [~~7 of the 1999~~
5 ~~Charter Schools Act~~] 22-8B-7 NMSA 1978. The charter school
6 applicant and the local school board may, however, jointly
7 waive the deadlines set forth in this section.

8 G. If the local school board denies a charter
9 school application or imposes conditions that are unacceptable
10 to the charter school applicant, the charter school applicant
11 may appeal the decision to the [~~state board~~] secretary pursuant
12 to Section [~~7 of the 1999 Charter Schools Act~~] 22-8B-7 NMSA
13 1978.

14 H. If a local school board denies a charter school
15 application, it shall state in writing its reasons for the
16 denial and provide the applicant with the written reasons for
17 the denial within fifteen days of the denial. If a local
18 school board grants a charter, it shall send a copy of the
19 approved charter to the department [~~of education~~] within
20 fifteen days after granting the charter."

21 Section 7. Section 22-8B-7 NMSA 1978 (being Laws 1999,
22 Chapter 281, Section 7) is amended to read:

23 "22-8B-7. CHARTER SCHOOL APPLICATION APPEAL--
24 PROCEDURES.--

25 A. The [~~state board~~] secretary, upon receipt of a

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1 notice of appeal or upon ~~[its]~~ the secretary's own motion,
2 shall review decisions of any local school board concerning
3 ~~[charter schools]~~ the denial, nonrenewal or revocation of a
4 charter in accordance with the provisions of this section.

5 B. A charter school applicant or governing body ~~[of~~
6 ~~a charter school]~~ that wishes to appeal a decision of a local
7 school board concerning the denial, nonrenewal or revocation of
8 a charter school or the imposition of conditions that are
9 unacceptable to the charter school or charter school applicant
10 shall provide the ~~[state board]~~ secretary with a notice of
11 appeal within thirty days ~~[after]~~ from the receipt of the local
12 school board's written decision. The charter school applicant
13 or governing body ~~[of the charter school]~~ bringing the appeal
14 shall limit the grounds of the appeal to the grounds for
15 denial, nonrenewal or revocation specified by the local school
16 board. The notice shall include a brief statement of the
17 reasons the charter school applicant or governing body contends
18 the local school board's decision was in error. Except as
19 provided in Subsection E of this section, the appeal and review
20 process shall be as follows:

21 (1) within sixty days after receipt of the
22 notice of appeal, the ~~[state board]~~ secretary, at a public
23 hearing that may be held in the school district in which the
24 charter school is located or in which the proposed charter
25 school has applied for a charter, shall review the decision of

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1 the local school board and make its findings. If the [~~state~~
2 ~~board~~] secretary finds that the local school board's decision
3 was arbitrary or capricious or contrary to the best interests
4 of the students, school district or community, the [~~state~~
5 ~~board~~] secretary shall [~~remand~~] refer the decision back to the
6 local school board with written instructions [~~for approval of~~]
7 to reconsider the charter [~~The instructions shall include~~
8 ~~specific recommendations concerning approval of the charter.~~
9 ~~The decision of the state board shall be final and not subject~~
10 ~~to appeal~~]; and

11 (2) within thirty days following the [~~remand~~]
12 referral of a decision by the [~~state board, the local school~~
13 ~~board, at a public hearing, shall approve the charter~~]
14 secretary, if the local school board does not decide in favor
15 of the charter school applicant or governing body, the
16 interested parties shall enter mediation pursuant to Sections
17 22-8B-16 through 22-8B-18 NMSA 1978 in an effort to resolve the
18 dispute concerning the local school board's decision. The
19 local school board shall pay the cost of the mediation.

20 C. The [~~state board, on its~~] secretary, on the
21 secretary's own motion, may review a local school board's
22 decision to grant a charter. Within sixty days after the
23 making of a motion to review by the [~~state board~~] secretary,
24 the [~~board~~] secretary, at a public hearing that may be held in
25 the school district in which the proposed charter school has

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1 applied for a charter, shall review the decision of the local
2 school board and determine whether the decision was arbitrary
3 [~~and~~] or capricious or whether the establishment or operation
4 of the proposed charter school would:

5 (1) violate any federal or state laws
6 concerning civil rights;

7 (2) violate any court order;

8 (3) threaten the health and safety of students
9 within the school district; or

10 (4) violate the provisions of Section [~~11 of~~
11 ~~the 1999 Charter Schools Act~~] 22-8B-11 NMSA 1978, prescribing
12 the permissible number of charter schools.

13 D. If the [~~state board~~] secretary determines that
14 the charter would violate the provisions set forth in
15 Subsection C of this section, the [~~state board~~] secretary shall
16 [~~remand~~] refer the decision back to the local school board with
17 instructions to deny the charter application. The [~~state~~
18 ~~board~~] secretary may extend the time lines established in this
19 section for good cause. The decision of the [~~state board~~]
20 secretary shall be final and not subject to appeal.

21 E. If a local school board denies an application or
22 refuses to renew a charter because the public school capital
23 outlay council has determined that the facilities do not meet
24 the standards required by Section 22-8B-4.2 NMSA 1978, the
25 charter school applicant or charter school may appeal the

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1 decision to the secretary as otherwise provided in this
2 section; provided that the secretary shall reverse the decision
3 of the local school board only if the secretary determines that
4 the decision was arbitrary, capricious, not supported by
5 substantial evidence or otherwise not in accordance with the
6 law."

7 Section 8. Section 22-8B-8 NMSA 1978 (being Laws 1999,
8 Chapter 281, Section 8) is amended to read:

9 "22-8B-8. CHARTER APPLICATION--CONTENTS.--The charter
10 school application, whether for a start-up school or a
11 conversion school, shall be a proposed agreement between the
12 local school board and the charter school and shall include:

- 13 A. the mission statement of the charter school;
14 B. the goals, objectives and student performance
15 standards to be achieved by the charter school;
16 C. a description of the charter school's
17 educational program, student performance standards and
18 curriculum that ~~[must]~~ shall meet or exceed the state ~~[board of~~
19 ~~education's]~~ educational standards and ~~[must]~~ shall be designed
20 to enable each student to achieve those standards;

21 D. a description of the way a charter school's
22 educational program will meet the individual needs of the
23 students, including those students determined to be at risk;

24 E. a description of the charter school's plan for
25 evaluating student performance, the types of assessments that

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1 will be used to measure student progress toward achievement of
2 the state's standards and the school's student performance
3 standards, the time line for achievement of the standards and
4 the procedures for taking corrective action in the event that
5 student performance falls below the standards;

6 F. evidence that the plan for the charter school is
7 economically sound, including a proposed budget for the term of
8 the charter and a description of the manner in which the annual
9 audit of the financial and administrative operations of the
10 charter school is to be conducted;

11 G. evidence that the fiscal management of the
12 charter school complies with all applicable federal and state
13 laws and regulations relative to fiscal procedures;

14 H. evidence of a plan for the displacement of
15 students, teachers and other employees who will not attend or
16 be employed in the conversion school;

17 I. a description of the governing body and
18 operation of the charter school, including how the governing
19 body will be selected, the nature and extent of parental,
20 professional educator and community involvement in the
21 governance and operation of the school and the relationship
22 between the governing body and the local school board;

23 J. an explanation of the relationship that will
24 exist between the proposed charter school and its employees,
25 including evidence that the terms and conditions of employment

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1 will be addressed with affected employees and their recognized
2 representatives, if any;

3 K. the employment and student discipline policies
4 of the proposed charter school;

5 L. an agreement between the charter school and the
6 local school board regarding their respective legal liability
7 and applicable insurance coverage;

8 M. a description of how the charter school plans to
9 meet the transportation and food service needs of its students;

10 N. a description of the waivers that the charter
11 school is requesting from the local school board and the [~~state~~
12 ~~board~~] secretary and the charter school's plan for addressing
13 these waiver requests;

14 O. a description of the facilities the charter
15 school plans to use; and

16 P. any other information reasonably required by the
17 local school board."

18 Section 9. Section 22-8B-9 NMSA 1978 (being Laws 1999,
19 Chapter 281, Section 9) is amended to read:

20 "22-8B-9. CHARTER SCHOOL--CONTRACT CONTENTS--RULES.--

21 A. An approved charter application shall be a
22 contract between the charter school and the local school board.

23 B. The contract between the charter school and the
24 local school board shall reflect all agreements regarding the
25 release of the charter school from school district policies.

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1 C. The contract between the charter school and the
2 local school board shall reflect all requests for release of
3 the charter school from ~~[state board rules or]~~ the Public
4 School Code or rules enacted pursuant to that code. Within ten
5 days after the contract is approved by the local school board,
6 any request for release from ~~[state board]~~ rules or the Public
7 School Code shall be delivered by the local school board to the
8 ~~[state board]~~ secretary. If the ~~[state board]~~ secretary grants
9 the request, ~~[it]~~ the secretary shall notify the local school
10 board and the charter school of ~~[its]~~ the decision. If the
11 ~~[state board]~~ secretary denies the request, ~~[it]~~ the secretary
12 shall notify the local school board and the charter school that
13 the request is denied and specify the reasons for denial.

14 D. Upon approval of the charter by the local school
15 board, the charter school shall be waived from the Public
16 School Code provisions relating to individual class load and
17 teaching load requirements, length of school day, staffing
18 patterns, subject areas and purchase of instructional
19 materials.

20 E. The charter school shall participate in the
21 public school insurance authority.

22 F. Any revision or amendment to the terms of the
23 contract may be made only with the approval of the local school
24 board and the governing body ~~[of the charter school]~~.

25 G. The charter ~~[shall]~~ may include procedures

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1 agreed upon by the charter school and the local school board
2 for the resolution of disputes between the charter school and
3 the local school board; provided that, if the charter does not
4 include such procedures or if the charter school and the local
5 school board do not reach an agreement after following the
6 procedures, the interested parties shall enter into mediation
7 pursuant to Sections 22-8B-16 through 22-8B-18 NMSA 1978 in an
8 effort to resolve a dispute.

9 [H. ~~The charter shall include procedures that shall~~
10 ~~be agreed upon by the charter school and the local school board~~
11 ~~in the event that such board determines that the charter shall~~
12 ~~be revoked pursuant to the provisions of Section 12 of the 1999~~
13 ~~Charter Schools Act.]"~~

14 Section 10. Section 22-8B-11 NMSA 1978 (being Laws 1999,
15 Chapter 281, Section 11) is amended to read:

16 "22-8B-11. CHARTER SCHOOLS--MAXIMUM NUMBER ESTABLISHED.--

17 A. A local school [~~boards~~] board shall [~~authorize~~
18 ~~the approval of~~] approve or disapprove both conversion and
19 start-up charter schools within [~~their~~] its school [~~districts~~]
20 district.

21 B. No more than fifteen start-up schools and five
22 conversion schools may be established per year statewide. The
23 [~~number of~~] charter school slots remaining in [~~that~~] a year
24 shall be transferred to succeeding years; [~~up to~~] provided that
25 a maximum of seventy-five start-up schools and twenty-five

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1 conversion schools may be established in any five-year period.
2 The [~~state board~~] department shall promptly notify the local
3 school board of each school district when the limits set forth
4 in this section have been reached."

5 Section 11. Section 22-8B-12 NMSA 1978 (being Laws 1999,
6 Chapter 281, Section 12) is amended to read:

7 "22-8B-12. CHARTER SCHOOLS--TERM--RENEWAL OF CHARTER--
8 GROUNDS FOR NONRENEWAL OR REVOCATION.--

9 A. A charter school may be approved for an initial
10 term of five or six years; provided that, if the approved term
11 is for six years, the first year shall be used for planning.

12 A charter may be renewed for successive periods of five years
13 each. Approvals of less than five years [~~can~~] may be agreed to
14 between the charter school and the local school board.

15 B. No later than [~~January 1~~] July 1 of the fiscal
16 year [~~prior to the year~~] in which the charter expires, the
17 governing body [~~of a charter school~~] may submit a renewal
18 application to the local school board. The local school board
19 shall rule in a public hearing on the renewal application no
20 later than [~~March 1~~] September 1 of the fiscal year in which
21 the charter expires, or on a mutually [~~agreed~~] agreed-upon
22 date.

23 C. A charter school renewal application submitted
24 to the local school board shall contain:

25 (1) a report on the progress of the charter

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1 school in achieving the goals, objectives, student performance
2 standards, state [~~board~~] minimum educational standards and
3 other terms of the initial approved charter application,
4 including the accountability requirements set forth in [~~Section~~
5 ~~22-1-6 NMSA 1978~~] the Assessment and Accountability Act;

6 (2) a financial statement that discloses the
7 costs of administration, instruction and other spending
8 categories for the charter school that is understandable to the
9 general public, that will allow comparison of costs to other
10 schools or comparable organizations and that is in a format
11 required by the [~~state board~~] department;

12 (3) contents of the charter application set
13 forth in Section [~~8 of the 1999 Charter Schools Act~~] 22-8B-8
14 NMSA 1978;

15 (4) a petition in support of the charter
16 school renewing its charter status signed by not less than
17 sixty-five percent of the employees in the charter school; and

18 (5) a petition in support of the charter
19 school renewing its charter status signed by a majority of the
20 households whose children are enrolled in the charter school.

21 D. A charter may be revoked or not be renewed by
22 the local school board if the board determines that the charter
23 school did any of the following:

24 (1) committed a material violation of any of
25 the conditions, standards or procedures set forth in the

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1 charter;

2 (2) failed to meet or make substantial
3 progress toward achievement of the state [~~board~~] minimum
4 educational standards or student performance standards
5 identified in the charter application;

6 (3) failed to meet generally accepted
7 standards of fiscal management; or

8 (4) violated any provision of law from which
9 the charter school was not specifically exempted.

10 E. If a local school board revokes or does not
11 renew a charter, the local school board shall state in writing
12 its reasons for the revocation or nonrenewal and provide the
13 charter school with the written reasons within fifteen days of
14 the date that the local school board revokes or does not renew
15 the charter.

16 F. A decision to revoke or not to renew a charter
17 may be appealed by the governing body [~~of the charter school~~]
18 pursuant to Section [~~7 of the 1999 Charter Schools Act~~] 22-8B-7
19 NMSA 1978."

20 Section 12. Section 22-8B-14 NMSA 1978 (being Laws 1999,
21 Chapter 281, Section 14) is amended to read:

22 "22-8B-14. CHARTER SCHOOLS STIMULUS FUND CREATED.--

23 A. The "charter schools stimulus fund" is created
24 in the state treasury. Money in the fund is appropriated to
25 the department [~~of education~~] to provide financial support to

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1 charter schools, whether start-up or conversion, for initial
2 planning and start-up costs and initial costs associated with
3 renovating or remodeling existing buildings and structures [~~for~~
4 ~~expenditure in fiscal year 2000 and subsequent fiscal years~~].

5 The fund shall consist of money appropriated by the legislature
6 and grants, gifts, devises and donations from any public or
7 private source. The department [~~of education~~] shall administer
8 the fund in accordance with rules adopted by the [~~state board~~]
9 secretary. The department [~~of education~~] may use up to three
10 percent of the fund for administrative costs. Money in the
11 fund shall not revert to the general fund at the end of a
12 fiscal year.

13 B. If the charter school receives an initial grant
14 and fails to begin operating a charter school within the next
15 [~~eighteen~~] twenty-four months, the charter school shall
16 immediately reimburse the fund."

17 Section 13. A new section of the 1999 Charter Schools
18 Act, Section 22-8B-16 NMSA 1978, is enacted to read:

19 "22-8B-16. [NEW MATERIAL] DISPUTE RESOLUTION--MEDIATION
20 REQUIREMENT--EXEMPTION--SELECTION OF MEDIATOR.--

21 A. The provisions of this section and Sections
22 22-8B-17 and 22-8B-18 NMSA 1978 shall apply to:

23 (1) disputes arising from a decision of a
24 local school board concerning the application of a charter
25 school or the denial, nonrenewal or revocation of a charter

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1 that remains wholly or partially unresolved thirty days after
2 it is referred to the local school board for reconsideration
3 pursuant to Subsection B of Section 22-8B-7 NMSA 1978; and

4 (2) except as provided in Subsection B of this
5 section, other disputes arising between a charter school and a
6 local school board that are not resolved pursuant to dispute
7 resolution provisions in the charter pursuant to Subsection G
8 of Section 22-8B-9 NMSA 1978.

9 B. The provisions of this section and Sections
10 22-8B-17 and 22-8B-18 NMSA 1978 shall not apply in a dispute:

11 (1) between a charter school and a school
12 district concerning the priority of the charter school in the
13 school district's five-year facilities plan;

14 (2) between a charter school employee and the
15 charter school or the school district; or

16 (3) arising as a result of the negotiation of
17 a contract, or from a contract agreement, between a charter
18 school and any person other than the local school board.

19 C. The mediator hired to perform a mediation
20 pursuant to this section shall be agreed to by each interested
21 party.

22 D. The local school board entering mediation shall
23 provide written notice of the date, time and location of the
24 mediation session to all interested parties at least fourteen
25 days prior to the first session and at least five days prior to

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1 each succeeding session.

2 E. The mediation session shall take place at a
3 neutral location providing no advantage to an interested party.
4 The location shall be within the boundaries of the school
5 district in which the charter school is proposed to be
6 established or is located. The mediator has final authority
7 regarding the location of a mediation session if the interested
8 parties are unable to agree on a location."

9 Section 14. A new section of the 1999 Charter Schools
10 Act, Section 22-8B-17 NMSA 1978, is enacted to read:

11 "22-8B-17. [NEW MATERIAL] INTERESTED PARTIES
12 PREPARATION--WRITTEN SUMMARIES--ATTENDANCE--DURATION.--

13 A. Prior to the first mediation session, each
14 interested party shall prepare a written summary that contains
15 a list of the issues to be resolved in the mediation and that
16 party's position relative to each issue. The summary shall not
17 exceed five pages and shall be delivered to the mediator seven
18 days prior to the first mediation session. A mediator may
19 request additional information from any interested party.

20 B. All interested parties properly notified of a
21 mediation session shall attend each session in its entirety
22 unless otherwise agreed to by all other interested parties and
23 the mediator. An interested party attending a mediation
24 session may enter into a settlement of any issue being
25 mediated.

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1 C. The mediation of the dispute shall be completed
2 within forty-five days from the date of the first mediation
3 session."

4 Section 15. A new section of the 1999 Charter Schools
5 Act, Section 22-8B-18 NMSA 1978, is enacted to read:

6 "22-8B-18. [NEW MATERIAL] MEDIATION REPORT--APPEAL--
7 COSTS.--

8 A. Within ten days of the completion of the
9 mediation process, the mediator shall provide each interested
10 party and the secretary a copy of the mediation report. The
11 report shall state:

- 12 (1) the issues that were mediated;
13 (2) which issues, if any, were resolved; and
14 (3) which issues, if any, remain partially or
15 wholly unresolved and suggestions of the mediator for
16 resolution of unresolved issues.

17 B. At the conclusion of the mediation, if the
18 interested parties do not reach an agreement, either interested
19 party may appeal the unresolved issues in the dispute to the
20 secretary. After reviewing and considering the issues
21 mediated, the secretary shall render a decision that shall be
22 final and not subject to appeal.

23 C. Except as otherwise provided in Section 22-8B-7
24 NMSA 1978, the costs associated with a mediation between a
25 charter school and the local school board shall be borne

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1 equally by the interested parties to the dispute."

2 Section 16. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2004.

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